IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.694 OF 1997

Shri Arun Shivram Sambre ...Appellant

Versus

Chintaman Barku Deshmukh & Ors. ...Respondents

.....

Mr.S.S.Kanetkar i/b Mr.G.S.Godbole for Appellant.

None for Respondents.

.....

CORAM: A.M.KHANWILKAR, J.

MARCH 21, 2006.

P.C.

1. Heard Counsel for the Appellant. This Appeal from Order takes exception to the interlocutory order passed by the Trial Court rejecting the interim application preferred by the Appellant for temporary injunction during the pendency of the suit being Exhibit 5 in Special Suit No.647 of 1996 vide order dated 17th January 1997.

2. This Court while entertaining the present

Appeal from Order granted ad-interim relief restraining the Respondents 1 to 8 from transferring, parting with possession of, or creating any third party rights or interests or charge in respect of the suit lands viz. Survey No.46(part) admeasuring 77-Hectors, 81-Ares, Survey No.44(part), admeasuring 9-Hectors 9-Ares and Survey No.45, admeasuring 10-Hectors, 29-Ares of Village Varnole, Taluka Wada, District Thane either in favour of Respondent No.9 or in favour of any other third person. This interim order was passed on 9th October 2000 which was continued subsequently and is still operating against the Respondents.

3. At this distance of time, instead of going into the correctness of the issues raised in the present Appeal, ends of justice would be met if the parties are directed to maintain the same arrangement as has been ordered on 9th October 2000 till the disposal of the Suit. This observation is made on the assumption that the Suit is still pending. Ordinarily, the Suit which is filed in 1996 must have been disposed of by now. Assuming

the same is pending, as mentioned earlier, interim arrangement ordered by this Court in terms of order dated 9th October 2000 shall continue till the disposal of the Suit. Trial Court is directed to dispose of the Suit, if pending, preferably by the end of September 2006.

4. It is made clear that if there is any other older High Court or Supreme Court expedited matter pending before the Trial Judge, the same shall be given precedence and the present Suit shall be heard immediately thereafter, keeping in mind the outer limit provided in this order being end of September 2006.

5. All questions in the said Suit are left open to be decided by the Trial Court on its own merits in accordance with law, uninfluenced by any observation made in the impugned Judgement or for that matter, the order passed by this Court referred to above or the present order.

6. Appeal is disposed of on the above terms. No order as to costs.

A.M.KHANWILKAR, J.